

## **REMARKS**

This paper is presented in response to the Office Action. By this paper, claims 7 and 14 are amended. Claims 7-24 are pending.

### **I. General Considerations**

#### **a. claim amendments and/or cancellations**

With particular reference to the claim amendments, Applicant notes that while claims 7 and 14 have been amended herein, such amendments have been made in the interest of expediting the allowance of this case. Notwithstanding, Applicant, may, on further consideration, determine that claims of broader scope than those now presented are supported. Accordingly, Applicant hereby reserves the right to file one or more continuing applications with claims broader in scope than the claims now presented.

Consistent with the points set forth above, Applicant submits that neither the claim amendments set forth herein, nor any other claim amendments, claim cancellations or statements advanced by the Applicant in this or any related case, constitute or should be construed as, an implicit or explicit surrender or disclaimer of claim scope with respect to the cited, or any other, references.

#### **b. remarks**

Applicant respectfully notes that the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the patentable distinctions between any cited references and the invention, example embodiments of which are set forth in the claims of this application. Rather, and in consideration of the fact that various factors make it impractical to enumerate all the patentable distinctions between the invention and the cited art, as well as the fact that the Applicant has broad discretion in terms of the identification and consideration of the base(s) upon which the claims distinguish over the cited references, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration by the Applicant, in this case or any other, of: additional or alternative distinctions between the invention and the cited references; and/or, the merits of additional or alternative arguments.

Applicants note as well that the remarks, or a lack of remarks, set forth herein are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Examiner; or as to any other assertions, allegations or characterizations made by the Examiner at any time in this case. Applicants reserve the right to challenge the purported teachings and purported prior art status of the cited references at any appropriate time.

## II. Rejection of Claims Under 35 U.S.C. § 103

The Examiner has rejected claims 7-9, 13-18 and 20-24 under 35 U.S.C. § 103(a) over US 4,772,123 to Radner (“*Radner*”). The Examiner has further rejected claims 10-12 and 19 under 35 U.S.C. § 103(a) over *Radner* or in view of US 5,621,831 to Staver et al. (“*Staver*”). Applicants respectfully disagree but submit that for at least the reasons set forth below, the rejections are moot and should be withdrawn.

### A. **Claims 7-9 and 13**

By this paper, Applicants have amended claim 7 to recite in part “...a step for mounting said cap to said header to hold said cap in alignment with said photonic device, wherein said steps are performed with said photonic device in an inactive state.” Support for this amendment can be found throughout the application, including at paragraphs [007] – [008] and [023].

In contrast, *Radner* states that “In any case, the light 25 reflected from lens 12 is detected by camera 28 to provide the reference image, and the light 27 emanating from component 10 is likewise detected to form an object image of a preselected area of the component.” Light emanating from component 10 may constitute, for example, light emitting from the active area of an LED or light reflected from the active area of a photodetector.” *Col. 3, lines 22-29. Emphasis added.*

Inasmuch as the Examiner has not established that *Radner*, as modified, teaches or suggests all the elements of claim 7, the Examiner has not established a *prima facie* case of obviousness with respect to claim 7 and the rejection of claim 7, as well as the rejection of corresponding dependent claims 8-9 and 13, should be withdrawn.

### B. **Claims 14-18 and 20-24**

By this paper, Applicants have amended claim 14 to recite in part “...a visual display system adapted to depict, without the use of light emitted from, or reflected by, said photonic device, a position of said cap relative to said photonic device as said capture assembly moves relative to said cap to align said first optical axis and said second optical axis.” Support for this amendment can be found throughout the application, including at paragraphs [007] – [008] and [023].

In contrast, and as noted above, *Radner* states that “In any case, the light 25 reflected from lens 12 is detected by camera 28 to provide the reference image, and the light 27 emanating from component 10 is likewise detected to form an object image of a preselected area of the component.” Light emanating from component 10 may constitute, for example, light emitting from the active area of an LED or light reflected from the active area of a photodetector.” *Col. 3, lines 22-29. Emphasis added.*

Inasmuch as the Examiner has not established that *Radner*, as modified, teaches or suggests all the elements of claim 14, the Examiner has not established a *prima facie* case of obviousness with respect

to claim 14 and the rejection of claim 14, as well as the rejection of corresponding dependent claims 15-18 and 20-24, should be withdrawn.

**C. Claims 10-12 and 19**

By virtue of their dependence from one of claims 7 or 14, claims 10-12 and 19 each require all the elements of their respective dependent claim. As noted at II.A and II.B above however, the Examiner has not shown that *Radner*, *Staver*, and/or any other reference(s) individually or collectively teach or suggest all the elements of claims 7 and 14. Applicants thus submit that the rejections of claims 10-12 and 19 should be withdrawn for at least the reasons set forth at II.A and II.B above.

**CONCLUSION**

In view of the amendments and remarks submitted herein, Applicants respectfully submit that each of the claims 7-24 now pending in this application is in condition for allowance. Therefore, reconsideration of the rejections is requested and allowance of those claims is respectfully solicited. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that could be clarified in a telephonic interview, the Examiner is respectfully requested to initiate the same with the undersigned attorney.

Dated this 14th day of April, 2008.

Respectfully submitted,

**/Peter F. Malen, Jr./Reg.# 45,576**

Peter F. Malen, Jr.  
Attorney for Applicants  
Registration No. 45,576  
**Customer No. 022913**  
Telephone: (801) 533-9800

PFM:msm  
W:\15436\247.1.1\JLP0000001456V001.doc